

**IN THE UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF TENNESSEE
AT KNOXVILLE
EASTERN DIVISION**

**MOTION FOR STAY OF BRIEFING ON PLAINTIFF'S MOTION FOR AWARD OF
ATTORNEYS FEES AND COSTS OR, IN THE ALTERNATIVE, A 30-DAY
EXTENSION OF TIME TO RESPOND TO PLAINTIFF'S MOTION**

The United States hereby moves for a stay of the parties' briefing on Plaintiff's Motion for Award of Attorneys Fees and Costs (hereinafter "Plaintiff's Motion") in the above-captioned case. Alternatively, Defendant requests a 30-day extension of time to respond to Plaintiff's Motion.

1. At midnight on December 22, 2018, the appropriations act that had been funding the Department of Justice expired and appropriations to the Department lapsed. The same is true for several other Executive agencies, including the Executive Office for the United States Attorneys (“EOUSA”). The Department does not know when funding will be restored by Congress. To date, on the filing of this motion, January 3, 2019, funding for the Department of Justice, including EOUSA, remains lapsed.

2. Absent an appropriation, Department of Justice attorneys and employees are prohibited from working, even on a voluntary basis, except in very limited circumstances, including "emergencies involving the safety of human life or the protection of property." 31 U.S.C. § 1342.

3. At a hearing before this Court on October 31, 2018, the parties agreed to an

amended briefing schedule.¹ (Doc. No. 128.)

4. Due to the shutdown, however, Defendant is unable to complete its response to Plaintiff's Motion, and it is unable to receive approval from the client agency, EOUSA, before filing its response.

5. Undersigned counsel for the Department of Justice therefore requests a stay of the parties' briefing on Plaintiff's Motion until Congress has restored appropriations to the Department.

6. If this motion for a stay is granted, undersigned counsel will notify the Court as soon as Congress has appropriated funds for the Department. The Defendant requests that, at that point, all current deadlines for the parties be extended commensurate with the duration of the lapse in appropriations.

7. If the Court denies this request, then the Defendant requests, in the alternative, that it be granted 30-additional days to respond to Plaintiff's Motion. The Defendant's current deadline to file a response to Plaintiff's Motion is January 11, 2018; therefore, Defendant is requesting until February 11, 2018 to respond, if the Court denies Defendant's request for a stay.

8. Defendant sent an email to opposing counsel on December 31, 2018, indicating its intent to seek a stay or, in the alternative, a 30-day extension of time to respond to Plaintiff's Motion. Opposing counsel explained that due to a state court trial, other deadlines, and vacation plans, Plaintiff may need to seek an extension of more than 30 days depending on when the Defendant's response brief is ultimately filed, and that Plaintiff will not object to Defendant's

¹ The parties first agreed to a briefing schedule on July 18, 2018, and again on September 14, 2018, before the issue of an appropriate fee award was referred to Magistrate Guyton for decision. (Doc. Nos.115, 119, 121, 128.)

requested extension on the condition that Defendant will not object to any future request by Plaintiff for additional time that may be needed to complete her reply brief.

9. Therefore, although we greatly regret any disruption caused to the Court and the other litigants, the Defendant hereby moves for a stay of the parties' briefing on Plaintiff's Motion for Award of Attorney's Fees and Costs until Department of Justice attorneys are permitted to resume their usual civil litigation functions.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that on January 3, 2019, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system which will send notification of such filing to Jennifer B. Morton, Esq. and Maha M. Ayesh, Esq., Counsel for Plaintiff.

s /Brandi M. Stewart
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